

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 05-CR-80847
HON. GEORGE CARAM STEEH

ISMAEL VARGAS-PRECIADO,

Defendant.

_____ /

ORDER DENYING MOTION TO DISMISS (#22)

Defendant Ismael Vargas-Preciado moves to dismiss Count One of a September 21, 2005 information charging him with one count of unlawful entry into the United States after deportation for an aggravated felony, 8 U.S.C. § 1326. Defendant believes that he pleaded guilty to the same charge in Case No. 05-808779, that he was sentenced to six-months incarceration, and that he has now served his sentence. Defendant thus moves for dismissal on double jeopardy grounds.

Defendant's motion is without foundation. Case No. 05-MJ-80779 represents pre-information proceedings before Magistrate Judge R. Steven Whalen. Upon the filing of the September 21, 2005 information, the criminal matter was assigned to this court as Case No. 05-CR-80847, and Case No. 05-MJ-80779 was merged with the docket. Defendant has not pleaded guilty to the charged crime. Defendant has not been sentenced. Trial is currently scheduled for May 15, 2007. There are no double jeopardy implications. Accordingly,

Defendant's motion to dismiss is hereby DENIED.

SO ORDERED.

Dated: April 24, 2007

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
April 24, 2007, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk